

## MESSAGE FROM THE GOVERNOR.

The Chair laid before the Senate the following message from the Governor:

Executive Office,  
Austin, Texas, May 5, 1897.

To the Senate:

Senate bill No. 338 is herewith returned without approval. Briefly stated, it provides that the commissioners court of any county in this State whose general revenue fund is insufficient to pay the outstanding floating indebtedness of the county and to defray its ordinary and legitimate expenses, and whose floating debt exceeds \$2000 is authorized to retire and fund such debt lawfully made; that the court shall retire and cancel such evidences of debt and issue in lieu thereof other warrants, which shall be registered and paid according to their registered number, and such warrants may bear interest at a rate not exceeding 6 per cent per annum, but shall not be receivable for taxes; and that the court at the time of retiring such warrants shall appropriate, set apart, and levy an ad valorem county tax not exceeding 15 cents on the \$100 to pay the interest and create a sinking fund for the new warrants, such levy to continue in force until all the new warrants are paid, and such tax to constitute a part of the general revenue ad valorem tax of 25 cents, permitted to be levied for general county purposes.

The bill is believed to be both unconstitutional and unwise. By section 9, article 8, of the Constitution, county taxes, except for debts incurred prior to September 25, 1883, are limited to 25 cents for general county purposes, 15 cents for roads and bridges, 25 cents for the erection of public buildings and other permanent improvements, and 15 cents for the maintenance of public roads, the last to be voted by a majority of the taxpayers. It is clear, and the bill recognizes, that whatever may be the constitutional status of county warrants issued in excess of current revenue (Corpus Christi v. Woessner, 38 Texas, 467), the only tax by any possibility available for their payment is the 25 cents authorized for general county purposes. This tax of 25 cents, or so much thereof as may be necessary, is manifestly intended by the Constitution to meet primarily the urgent current expenses of the counties. Certainly, until these expenses are pro-

vided for no part of this tax can be devoted to other uses, for otherwise the counties would be rendered impotent and helpless. The bill under consideration would reverse this salutary rule. No matter what the exigencies of a county might be, regardless of its immediate and imperative necessities, a large part of the current revenue is sought to be permanently diverted from the payment of the current expenditures. Interpreting the constitutional provision already cited (section 9, article 8) in its application to cities and towns, the Supreme Court said: "The city had no authority to pledge or appropriate any part of the current revenues to the payment of the principal or interest of the debt. That fund is devoted by the Constitution to the support of the city government, and is always under the control of the council for that purpose." As this provision applies with equal force to counties, their current revenue can not be diverted, but is always under the control of the commissioners courts for the support of the county governments.

Bank v. Terrell, 78 Texas, 460.  
Opinions Attorney-General, 1895-97, page 53.

As justifying its passage, it is declared in the bill that many counties in the State owe a floating indebtedness greater than can be paid from the general revenue fund of the counties, yet it is apparent that in this respect no relief will be given, because the debt is increased to the extent of the annual interest, and no additional revenue is available under the Constitution. In counties which would accept the provisions of the bill and fund their floating debt, it is well known that warrants are worth less than par, and the payment of interest formed no part of the original contracts. Allowance was made by creditors in their prices for the depreciated value of the scrip and the necessity of waiting for payment without interest. Nor will the condition of current affairs be improved under the bill, for if these expenses can not be met with a tax of 25 cents they cannot be with the lesser rate of 10 cents proposed. It is true, the effect of this law would be the enhancement of the value of outstanding warrants and probable earlier liquidation, but in view of the facts stated it would be accomplished contrary to the original contracts, without valuable consideration, and

would seriously embarrass the counties. To the extent that existing warrants were enhanced in value, warrants for current expenses would necessarily be depreciated, the counties left without adequate means to meet the most urgent demands, and their condition still further aggravated by the addition of interest to their indebtedness. The remedy under the present Constitution is to require the payment of all taxes in money, so that warrants may be paid in the order of registration, and reduction of county expenditures.

C. A. CULBERSON.